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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 STEVE ALAN MAHONEY,

11 Plaintiff,

12 v.

13 STEVE HAMMOND et al.,

14 Defendants.

CASE NO. C11-5751-RBL-JRC

ORDER TO SHOW CAUSE OR
AMEND

15 This action has been referred to the undersigned Magistrate Judge pursuant to 28
16 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and
17 MJR 4. Plaintiff has been granted leave to proceed in forma pauperis. Review of the
18 proposed complaint shows that plaintiff has not exhausted the prison administrative
19 grievance procedures available to him (ECF No. 1, proposed complaint page 2).
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21 The Prison Litigation Reform Act ("PLRA" or "the Act") requires plaintiff to
22 exhaust whatever administrative remedies are available to him prior to filing a complaint
23 in federal court. The relevant portion of the Act states:
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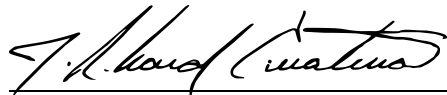
1 No action shall be brought with respect to prison conditions under section
2 1983 of this title, or any other Federal law, by a prisoner confined in any jail,
3 prison, or other correctional facility until such administrative remedies as are
4 available are exhausted.

42 U.S.C. § 1997e(a).

5 Here, plaintiff filed this action while incarcerated and the PLRA applies to him.
6 See 42 U.S.C. §1997e(h). The statute defines “prisoner” to include any person confined
7 in a facility for a violation of criminal laws, including persons accused of or convicted of
8 crimes.

9 Having determined that the PLRA applies to plaintiff, it is clear he did not exhaust
10 his available remedies (ECF No. 1, proposed complaint page 2). Plaintiff is ordered to
11 show cause why this action should not be **DISMISSED WITHOUT PREJUDICE PRIOR**
12 **TO SERVICE**. Plaintiff may file an amended complaint curing this defect if he believes
13 he has grounds to do so. Otherwise, a response to this order will be due on or before
14 November 4, 2011. Failure to response or an inadequate response may result in a Report
15 and Recommendation that this action be dismissed either for failure to exhaust
16 administrative remedies, or for failure to respond to a court order.

18 Dated this 3rd day of October, 2011.

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21 J. Richard Creatura
22 United States Magistrate Judge
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